



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Edmar Saul MARCHEZE

Serial No.: 09/811,429

Group No.: 1742

Filed: March 20, 2001

Examiner: M. Andrews

For: METHOD FOR USING A PRE-JEL FOR PRODUCING SELF-REDUCING
AGGLOMERATES

Attorney Docket No.: 949448-4

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

NOTIFICATION OF INAPPROPRIATE PATENT OFFICE ACTION,
REQUEST TO WITHDRAW TERMINAL DISCLAIMER
and
REQUEST FOR REFUND

The Action of November 20, 2002, failed to cite all the appropriate art against the above application, such art having been subsequently cited in the Action of September 18, 2003, and instead, rejected claims 1-3 under the judicially created doctrine of obviousness-type double patenting relative to application 09/811,429.

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8a)

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

- ☒ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

FACSIMILE

- ☐ transmitted by facsimile to the Patent and Trademark Office

Signature

Date: January 5, 2004

William R. Evans

(type or print name of person certifying)

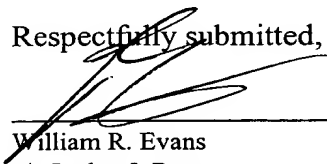
As a result of this incomplete Action from the Patent Office, the Applicant was induced to file a Terminal Disclaimer with respect to that application.

After subsequent allowance and payment of the Issue Fee April 7, 2003, the Patent Office corrected its prior incomplete Action and cited additional art (Harker, et al. U.S. Patent 3,922,156 and Buker U.S. Patent) in an Action of September 18, 2003, to which the Applicant has now responded by canceling claims 1-3 that had been incompletely rejected so as to prompt the Terminal Disclaimer.

Therefore, the Terminal Disclaimer no longer serves any purpose and should be withdrawn as having been filed in response to an incomplete and, thus, inappropriate Action from the Patent Office. The Patent Office has a duty to issue complete Actions so that the Applicant may choose a course of response, and cannot be allowed to induce one course of conduct with an incomplete Action and then complete the Action inducing that conduct.

Upon withdrawal of the Terminal Disclaimer for this inappropriate Patent Office procedure, refund of the fee (\$110.00) for the Terminal Disclaimer is also requested.

Respectfully submitted,



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